



RCRA Permit Policy Compendium

Volume 9

9490.1980 - 9521.1990

Standards for Managing Specific Hazardous Wastes (Part 266)

- **Recyclable Materials**
- **Waste Burned for Energy Recovery**

Permitting Policies

- **Priorities**
- **Corrective Action**
- **Special Permitting**
- **Compliance & Enforcement**
- **Public Participation**

Permitting Procedures (Parts 124 & 270)

- **General**

* * * *

[pages excerpted]

9521 – GENERAL REQUIREMENTS

Part 124 Subpart A

* * * *

[pages excerpted]

9 JUL 1984

MEMORANDUM

Subject: Reporting Withdrawals as Final Permit Determinations

From: John H. Skinner, Director /5/
Office of Solid Waste

To: Hazardous Waste Division Directors, Regions I-X

Purpose

This memo is in response to your inquiries concerning how to report permit withdrawals in the Strategic Planning and Management System (SPMS). It replaces all earlier guidance in this regard.

Requirements for a Withdrawal Final Determination

For SPMS purposes, a permit application is considered withdrawn when EPA, or an authorized state, approves the closure plan for the facility following an inspection, a public notice of the plan, and response to comments. Termination of interim status through permit denial is not a prerequisite for counting a withdrawal as a final determination, nor does it matter whether the Part B request precipitated the closure or whether the facility voluntarily chose to close in the absence of a Part B request.

As discussed in previous guidance and in conversations we have had, it is a regional and state decision whether to proceed to deny a permit and terminate interim status for facilities which request withdrawal. Note, if you deny a permit for facilities which have withdrawn (as defined above), this permit denial should not be reported as a "permit denial" final determination in SPMS since the "permit denial" category is reserved for facilities which requested a permit and were denied because they failed to submit an adequate Part B and/or failed to show compliance with the Part 264 standards. We are developing separate guidance on how and when to terminate the interim status of facilities.

Protective Filers

In no case should the withdrawal of a protective filer be reported as a final permit determination. A withdrawal is considered a final determination only if the facility qualified for interim status, requested withdrawal (e.g., went out of business, changed waste streams, moved to under 90-day storage), an inspection was conducted of the facility, and a closure plan was approved after public notice.

Less Than 90-day Storers

Regarding less than 90-day storers, some regions have asked whether closure plans should be required and, if so, when such plans should be implemented. We are also developing guidance in this area; in the interim, you should report reversions to less than 90-day storage as final determinations in SPMS only if the procedures outlined in this memo are followed (i.e., inspection, public notice, closure plan approval, etc.). Depending on our future guidance on facilities which have become less than 90-day storers, we may track activities related to actual closure of these facilities outside the SPMS system entirely.

New Facilities That Withdraw

Applications withdrawn for new facilities will not be counted as final determinations in SPMS since there is no closure process for these facilities. However, you should indicate these withdrawals in the RWDMS permit action record because we do want a record of these actions to assist us in evaluating regional workload. (If EPA, or an authorized state, drafted a permit (or a notice of intent to deny a permit) prior to the applicant's request for withdrawal, the draft permit is counted in SPMS towards the region's commitment for draft permits).

RWDMS Data Elements

We recognize that you may need to change your procedures for reporting final determinations in RWDMS to accommodate this guidance. The OSW Information Management Task Force reviewed a draft of this guidance during their meeting of June 19 and 20 and made recommendations for changing the reporting procedures to minimize the burden in the regions. The primary changes involve redefining some of the codes under the C1105 component (facility status information). We will be sending a memorandum to you shortly requesting your comments on the Task Forces' recommendations. Until the final reporting procedures for RWDMS are developed, we will continue to verify the number of withdrawal final determinations over the phone with your staff before we forward this information for use in SPMS.

If you have any questions or comments please contact
Peter Guerrero on 8-382-4740 or Doug Ruby on 8-382-4499.

Attachment

cc: Hazardous Waste Branch Chiefs, Regions I-X
HWDMS RPOs, Regions I-X
Peter Guerrero
Steve Levv